

AO 91 (Rev. 02/09) Criminal Complaint

# United States District Court

for the

Western District of New York

United States of America

v.

Case No. 23-MJ- 4043

ERIC PASSALACQUA,

*Defendant*

## CRIMINAL COMPLAINT

I, CHRISTA THOMAS, the complainant in this case, state that the following is true to the best of my knowledge and belief: That from approximately December 10, 2020 through January 24, 2023, in the Western District of New York and elsewhere, the defendant, ERIC PASSALACQUA:

(1) did knowingly employ, use, persuade, induce, entice and coerce minors to engage in sexually explicit conduct for the purpose of producing visual depictions of such conduct, which depictions were produced using materials that had been shipped and transported in and affecting interstate and foreign commerce, and which depictions were transported in and affecting interstate and foreign commerce, including by computer, in violation of 18 U.S.C. § 2251(a);

(2) did knowingly receive and distribute child pornography that had been transported in and affecting interstate and foreign commerce, including by computer, in violation of 18 U.S.C. § 2252A(a)(2)(A); and

(3) did knowingly possess and access with intent to view, material that contained images of child pornography that had been transported using a means and facility of interstate and foreign commerce, and in and affecting interstate and foreign commerce, including by computer, in violation of 18 U.S.C. § 2252A(a)(5)(B).

This Criminal Complaint is based on these facts: **SEE ATTACHED AFFIDAVIT OF CHRISTA THOMAS, FBI.**

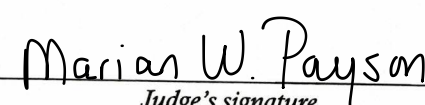
☒ Continued on the attached sheet.

  
CHRISTA THOMAS, Special Agent, FBI

Affidavit and Criminal Complaint submitted electronically by email in .pdf format. Oath administered, and contents and signature, attested to me as true and accurate telephonically pursuant to Fed.R.Crim. P. 4.1 and 4(d) on:

Date: January 27, 2023

City and State: Rochester, New York

  
Judge's signature

MARIAN W. PAYSON  
UNITED STATES MAGISTRATE JUDGE

**AFFIDAVIT IN SUPPORT OF A CRIMINAL COMPLAINT**

STATE OF NEW YORK    )  
COUNTY OF MONROE    )       ss.:  
CITY OF ROCHESTER    )

I, CHRISTA M. THOMAS, being duly sworn, depose and state:

1.     I have been a Special Agent of the FBI since December 2020 and am currently assigned to the Rochester, NY Resident Agency. I am responsible for investigating federal crimes involving child exploitation and child pornography.

2.     I submit this affidavit in support of a criminal complaint charging ERIC PASSALACQUA, with the knowing production, receipt, distribution, and possession of child pornography, to include child pornography depicting prepubescent minors, in violation of 18 U.S.C. §§ 2251(a); 2252A(a)(2)(A); and 2252A(a)(5)(B).

3.     The information contained in this affidavit is based upon my personal knowledge and observations, my training and experience, conversations with other law enforcement officers and witnesses, my review of documents and records related to this case, and statements made by PASSALACQUA to members of the FBI.

4.     Because this affidavit is being submitted for the limited purpose of establishing probable cause to support a criminal complaint, I have not included every fact known to me as a result of this investigation. Rather, I have set forth facts that I believe are relevant to establish that PASSALACQUA knowingly produced, received, distributed, and possessed child pornography, in violation of 18 U.S.C. §§ 2251(a); 2252A(a)(2)(A); and 2252A(a)(5)(B).

**January 2023 lead from Anchorage, Alaska FBI**

5.     On or about January 20, 2023, the FBI Rochester was contacted by the FBI in Anchorage, Alaska, who reported that an individual in Phelps, NY had exchanged child

pornography with an individual in Alaska (AK SUSPECT), utilizing the social media and messaging platform Kik. Kik is an instant messaging mobile application that allows individuals to communicate and share pictures and other media. Kik operates via the internet, which is a means and facility of interstate and foreign commerce. Kik is known to law enforcement as a platform on which child pornography is distributed and received throughout the world.

6. The lead stemmed from an investigation that began in approximately September 2022, involving AK SUSPECT's possible misuse of classified information. On or about January 10, 2023, FBI Anchorage executed a search warrant at AK SUSPECT's home, during which time the FBI seized several digital storage devices, to include a phone.

**Kik conversations discovered on AK SUSPECT's phone**

7. Forensic analysis of AK SUSPECT's phone revealed a series of Kik communications that took place in June 2022, between AK SUSPECT and Kik user "bigdirtymac." The conversations were sexually explicit in nature and involved the sexual abuse and exploitation of minors. The following are excerpts of conversations that were recovered from AK SUSPECT's phone, that took place between June 4 and June 11, 2022:

AK SUSPECT: Hey I'd love to chat about your friend's daughter

bigdirtymac: Any limits?

AK SUSPECT: Not into piss/scat but other than that no limits

AK SUSPECT: How old is she?

bigdirtymac: *sends image depicting a 5 to 7-year-old female, now identified as VICTIM 1*

AK SUSPECT: Mmmmm young thing

bigdirtymac: You like?

AK SUSPECT: Oh yeah . . . I'd love to have her sit on my lap

bigdirtymac: What would you do?

AK SUSPECT: I'd be the family friend, the "Uncle," and she can sit on my lap while I get hard

bigdirtymac: What do you like about her specifically

AK SUSPECT: I love that body so nice and young

bigdirtymac: I want her mouth. Those pretty little eyes looking up.... mmmm...

AK SUSPECT: She'd made your cock look bigger too

bigdirtymac: I've pulled my dick out behind her and rubbed it on her hair. Rubbed my dick on her wubby and toothbrush. She put the wubby in her mouth like a min after

bigdirtymac: *sends two images of VICTIM 1, to include:*

- a. Image - 115be00e6801785ecd35e91cfe830ad5: A photograph of VICTIM 1 lying on her stomach looking at a tablet with her back side to the camera. VICTIM 1 is wearing shorts that are pulled into her buttocks so that her butt-cheeks are exposed in a sexually suggestive manner. The focal point of the photograph appears to be the child's buttocks.
- b. Image 7157057889ea6a8ab4a52508a5768b5b: A photograph of VICTIM 1 lying on what appears to be a carpet. VICTIM 1 is clothed in shorts and a shirt, lying on her back with her legs spread exposing her clothed vagina. The photo is focused on the torso and vaginal area of VICTIM 1.

AK SUSPECT: Oh fuck I'd love to lay on top of her

bigdirtymac: I want to secretly feed her my cum

AK SUSPECT: mmmmmmm start her early eating cum

bigdirtymac: You got anyone you perv on?

AK SUSPECT: 14-year-old Kaylee

8. AK SUSPECT then distributed five images of child pornography to bigdirtymac depicting a white female, approximately 14 years of age. I have reviewed the images and describe two as follows:

- a. Image A9548aa448a442fbfb939c3584a4eaa6: A photograph depicting an approximately 14-year-old female, positioned on the floor nude with her breasts and bare vagina exposed to the camera. The child is touching her vagina with her hand.
- b. Image B7173740f8a7c50cceefcd508b83c4a1: A photograph depicting an approximately 14-year-old female. The child is nude and is positioned on the floor kneeling with her buttocks and bare vagina exposed to the camera.

Based on my training and experience, I believe that these images constitute child pornography as defined by 18 U.S.C. § 2256(8), and that the above interactions constitute the receipt of child pornography by “bigdirtymac” in violation of 18 U.S.C. § 2252A(a)(2)(A).

**Search Warrant for the bigdirtymac Kik account**

9. In December 2022, FBI Anchorage obtained a search warrant for the content of the “bigdirtymac” Kik account, which has been provided to FBI Rochester.

10. I have reviewed the contents of the bigdirtymac account, which included photographs, IP logs, chat logs, and other information, but not the content of conversations.

11. Within the account, I observed multiple photographs of VICTIM 1, to include:

- a. Image 1d8a5089-168-4fdf-b396-9120063ad50f: A photograph of VICTIM 1, standing and holding a pink blanket, with the letter “B” an apparent dog paw on the blanket. VICTIM 1’s hair is pulled back into a ponytail. An adult male, wearing khaki cargo pants is depicted touching his penis on VICTIM 1’s hair. It appears that the adult male’s left hand is touching VICTIM 1’s shoulder while he touches his penis to VICTIM 1’s head.
- b. Image bc583288-11f1-4615-b315-fbce558873ef: A photograph of VICTIM 1, lying fully naked in a bathtub with her buttocks exposed above the waterline. A blue object is in the bathtub and VICTIM 1 is looking up at the camera.

Based on my training and experience, I believe that Image 1d8a5089-168-4fdf-b396-

9120063ad50f described in subparagraph (a) constitutes child pornography as defined by 18 U.S.C. § 2256(8).

12. I also observed the following additional images of child pornography on the bigdirtymac account as defined by 18 U.S.C. § 2256(8):

- a. Image 5e9fd49c-1628-49f1-ae42-3d9631-ce32d8: A photograph of an approximately 12 to 13-year-old female, standing fully naked with her breasts and nude vagina exposed to the camera in a lascivious manner. The focal of the photograph is the child's nude torso and vagina.
- b. Image D067e525-828c-460e-9934-43701e460540: A photograph of the same child, standing in front of a shower, fully naked, with her breasts and nude vagina exposed to the camera. The focal point of the photograph is the child's nude torso and vagina.

13. In addition to the above, the bigdirtymac account contained a log titled "chat\_platform\_sent.txt," containing file titles associated with images sent by bigdirtymac. According to the log, on November 3, 2022, using the SUBJECT IP, bigdirtymac distributed the images of VICTIM 1 described in paragraph 11 above (Image 1d8a5089-168-4fdf-b396-9120063ad50f and Image bc583288-11f1-4615-b315-fbce558873ef), to a user other than AK SUSPECT. This demonstrates that the user of the bigdirtymac account was actively distributing VICTIM 1's images via Kik from the SUBJECT PREMISES as late as November 3, 2022, to other individuals in violation of 18 U.S.C. § 2252A(a)(2)(A).

**Identification of ERIC PASSALACQUA**

14. Kik provided "chat sent" IP logs for the bigdirtymac account containing IP information for bigdirtymac's chats. According to the logs, bigdirtymac utilized IP address 64.246.226.25 (the SUBJECT IP) when communicating with other individuals.



15. A subpoena was issued to internet service provider Gonetspeed for subscriber information related to the SUBJECT IP. In response, Gotnetspeed provided the following subscriber information:

Subscriber Name: XXXXX PASSALACQUA  
Address of Service: XXX County Road 6, Phelps, NY  
14532  
Billing Address: XXX County Road 6, Phelps, NY 14532  
Length of Service: August 5, 2019  
IP Address: 64.246.226.25.  
Customer has had the same IP since August 5, 2021.

16. Background investigation revealed that XXXXX Passalacqua is the brother of ERIC PASSALACQUA, and that both reside at XXX County Rd. 6, Phelps, NY.

17. According to the New York State Department of Motor Vehicles, ERIC PASSALACQUA's driver's license and vehicle are registered to XXX County Rd. 6. FBI Rochester also made contact with the Ontario County Sheriff's Office (OCSO), who are familiar with the occupants of XXX County Rd. 6 and confirmed that ERIC PASSALACQUA currently resides at that address along with an 8 year-old minor, now identified as VICTIM 2.

18. Based on open internet research, and information provided by the OCSO and other sources, VICTIM 1 has been identified as the 6-year-old daughter of a friend of ERIC PASSALACQUA who resides in Geneva, NY.

**January 24, 2023 Search Warrant at XXX County Rd. 6, Phelps, NY**

19. Based on the above, on January 24, 2023, a search warrant was granted for the premises at XXX County Rd. 6, Phelps, NY. The warrant was executed the same day by members of the FBI with assistance from the OCSO. PASSALACQUA was present in the home where he was interviewed by agents.

20. While inside the residence, PASSALACQUA told Agents that he was the owner of the bigdirtyamac Kik account and admitted that he has viewed child pornography on Kik. PASSALACQUA explained that he turned to child pornography because he was “desensitized” to “normal” pornography. When asked, PASSALACQUA acknowledged that he knew that child pornography was illegal. When asked about particular devices that may have been used, PASSALACQUA mentioned a Samsung phone, which Agents seized during the execution of the search warrant. Agents showed PASSALACQUA multiple photographs of VICTIM 1, to include the child pornography photograph Image: 1d8a5089-168-4fdf-b396-9120063ad50f, referenced in paragraph 11(a) above, Image: bc583288-11f1-4615-b315-fbce558873ef, referenced in paragraph 11(b) above, and clothed images depicting VICTIM 1’s face. After denying that he knew VICTIM 1, PASSALACQUA admitted that he in fact knew VICTIM 1, and confirmed her name, identity, and the nature of his relationship with VICTIM 1 and her family. PASSALACQUA then admitted that he produced the child pornography photo: Image: 1d8a5089-168-4fdf-b396-9120063ad50f described in paragraph 11(a) above, and that the photo depicted PASSALACQUA putting his penis on VICTIM 1’s hair.

21. While executing the warrant, Agents encountered and identified VICTIM 2, who was removed from the residence and brought to a relative’s house.

22. When asked, PASSALACQUA agreed to accompany Agents to another location in order to engage in a polygraph examination regarding the sexual abuse/exploitation of children. As part of the examination, PASSALACQUA was read and knowingly waived his *Miranda* warnings. The examination consisted of three phases: a pre-test interview; in-test procedures; and a post-test interview. During the pre-test interview,



PASSALACQUA made further admissions concerning his involvement in child pornography and his actions with VICTIM 1. Specifically, PASSALACQUA admitted that he used Kik to send and receive child pornography with other individuals. PASSALACQUA also stated that he participated in chats on Kik with individuals that presented themselves to be minors, but that he believed were actually adults “posing” as minors. He further admitted that he considered possibly meeting with a child, but that he never pursued it.

23. When asked about his child pornography interests, PASSALACQUA stated that he was interested in images of prepubescent minors and that he has seen child pornography images of minors as young as 6. PASSALACQUA stated that he preferred children between 8 and 10-years-old. When asked, PASSALACQUA admitted that he has used child pornography for masturbation.

24. When asked about VICTIM 1, PASSALACQUA admitted that he took a photograph of his penis close to VICTIM 1’s head and that he also took a shirtless photograph of VICTIM 1. PASSALACQUA estimated that the photograph of his penis next to VICTIM 1’s head was produced approximately one year prior to the search warrant, and that the shirtless photograph was taken a few weeks prior to the search warrant. PASSALACQUA indicated that Agents would not find child pornography on his phone because he recently deleted it.

25. During the post-test phase of the polygraph, PASSALACQUA made further admissions concerning his involvement with child pornography and VICTIM 1. In sum and substance, PASSALACQUA admitted that he had taken additional photographs of himself placing his penis near VICTIM 1’s head. PASSALACQUA stated that he took the photos

while visiting VICTIM 1's house, which Agents have identified as a residence in Geneva, NY within the Western District of New York.

26. PASSALACQUA denied committing any other type of sexual abuse against VICTIM 1. When asked, PASSALACQUA denied sexually exploiting VICTIM 2 in any manner. PASSALACQUA commented that he was drinking and using cocaine on at least one occasion when photographing VICTIM 1.

27. Following the execution of the search warrant, Agents located VICTIM 1's father, who resides in Geneva, NY, within the Western District of New York. VICTIM 1's father positively identified VICTIM 1 as the child depicted in the photographs referenced above.

**Preliminary forensic analysis of PASSALACQUA's Samsung cell phone**

28. PASSALACQUA's Samsung cell phone, seized on January 24, has since been subjected to a preliminary forensic examination, which has revealed multiple images of child pornography as defined by 18 U.S.C. § 2256(8). This includes images that PASSALACQUA produced depicting both VICTIM 1 and VICTIM 2, in violation of 2251(a), and images that PASSALACQUA received and possessed, in violation of 18 U.S.C. §§ 2252A(a)(2)(A) and 2252A(a)(5)(B). The phone contains the trademark "MANUFACTURED IN VIETNAM," and has therefore traveled in and affecting interstate and foreign commerce.

29. Amongst the photos that PASSALACQUA produced in violation of 18 U.S.C. § 2251(a), Agents have observed the following:

- a. Image: 16108660522450d09d415912dce86: This is photograph depicting VICTIM 2, who appears to be sleeping. An adult male's penis is next to and/or touching VICTIM 2's mouth. Metadata associated with the photograph indicates that it was produced on January 17, 2021,

when VICTIM 2 was 6-years-old. Latitude and longitude information associated with the photograph indicate that the photo was produced at PASSALACQUA's home at XXX County Rte. 6, Phelps, NY.

- b. Image: 16108659236360d09d2c7b0d5e9b9: This is a photograph depicting VICTIM 2. An adult male's penis is placed next to VICTIM 2's face and tattoos are visible on the male's arm. PASSALACQUA is confirmed to have arm tattoo(s). Metadata associated with the photograph indicates that it was produced on January 17, 2021, when VICTIM 2 was 6-years-old. Latitude and longitude information associated with the photograph indicate that the photo was produced at PASSALACQUA's home at XXX County Rte. 6, Phelps, NY.

30. In addition to the above, Agents observed the following related to VICTIM 1:

- a. 1621387087525\_20201210\_221615.jpg: This is a photograph depicting VICTIM 1, in which VICTIM 1 appears to be holding a purple tablet. A male is next to VICTIM 1 exposing and touching his penis. VICTIM 1 has a green pacifier in her mouth. Metadata associated with the photograph indicates that it was produced on December 10, 2020, when VICTIM 1 was 4-years-old. Latitude and longitude information associated with the photograph indicate that the photo was produced either in, or near, VICTIM 1's home in Geneva, NY.
- b. 20210311\_194052.jpg: This is a photograph depicting a male rubbing his penis on a child's, green pacifier, consistent with the pacifier depicted in VICTIM 1's mouth as described above and referenced in the Kik conversations described above. Metadata associated with the photograph indicates that it was produced on March 11, 2021, when VICTIM 1 was 5-years-old. Latitude and longitude information associated with the photograph indicate that the photo was produced either in, or near VICTIM 1's home in Geneva, NY.

31. In addition to the above, the phone contains child pornography that the defendant received and possessed in violation of 18 U.S.C. §§ 2252A(a)(2)(A) 2252A(a)(5)(B), two of which images are described as follows:


- a. 9f4b6c9290c8f1a873dda82764bc8eaa09dd093ca057cace01a043d56b1e4ca7.o: This is an image depicting an approximately 3 to 5-year-old female, performing oral sex on an adult male.

- b. Md5 hash#: cb7097aa3e362e153d51038662150f74: This images depicts a toddler-aged female with her nude vagina exposed in a lascivious manner drinking milk from a sippy-cup.
- c. Md5 hash#: 9829c251e55f8c9d1da63b671e248e2e: This image depicts an 6 to 9-year-old female who is performing oral sex on an animal with white fur. The photo is a close up of the child's face performing oral sex on the animal's penis and is too close to determine whether the animal is a dog or some other species.

32. Forensic examination of the defendant's phone is ongoing.

### CONCLUSION

33. Based upon the forgoing, I respectfully submit that there is probable cause exists to believe that PASSALACQUA did knowingly violate 18 U.S.C. §§ 2251(a), 2252A(a)(2)(A), and 2252A(a)(5)(B).

  
CHRISTA THOMAS  
Special Agent  
Federal Bureau of Investigation

Affidavit submitted electronically by email in .pdf format. Oath administered, and contents and signature attested to me as true and accurate telephonically pursuant to Fed. R. Crim. P. 4.1 and 4(d) on 1/27, 2023.

  
HON. MARIAN W. PAYSON  
United States Magistrate Judge